S T A T E O F N E W Y O R K

7043--A

2015-2016 Regular Sessions

I N A S S E M B L Y

April 21, 2015

Introduced by M. of A. COLTON, GOTTFRIED, SIMON, ZEBROWSKI, COOK, ARROYO, STECK, HOOPER -- Multi-Sponsored by -- M. of A. DILAN, ENGLEBRIGHT, LUPARDO -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting a manufacturer from labeling or advertising a nonwoven disposable product for sale as a flushable without prior approval

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 391-u to read as follows:

S 391-U. NONWOVEN DISPOSABLE PRODUCTS. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "ADVERTISED" MEANS REPRESENTATION MADE BY STATEMENT, WORD, DESIGN, DEVICE, SOUND OR ANY COMBINATION THEREOF IN PRINT OR BROADCAST MEDIA.

(B) "FLUSHABLE", "SEPTIC SAFE", AND "SEWER SAFE" MEANS WITH REGARD TO A NONWOVEN DISPOSABLE PRODUCT, A PRODUCT THAT IS: (I) ABLE TO CLEAR TOILETS AND PROPERLY MAINTAINED DRAINAGE PIPE SYSTEMS UNDER EXPECTED PRODUCT USAGE CONDITIONS; (II) COMPATIBLE WITH WASTEWATER CONVEYANCE, TREATMENT, REUSE, AND DISPOSAL SYSTEMS WITHOUT CAUSING BLOCKAGE, CLOGGING, OR OTHER OPERATIONAL PROBLEMS; AND (III) UNRECOGNIZABLE IN EFFLUENT LEAVING ON-SITE AND MUNICIPAL WASTEWATER TREATMENT SYSTEMS AND IN DIGESTED SLUDGE FROM WASTEWATER TREATMENT PLANTS THAT ARE APPLIED TO SOIL.

(C) "LABEL" MEANS THOSE REPRESENTATIONS MADE THROUGH STATEMENT, WORD, PICTURE, DESIGN OR EMBLEM ON A PACKAGING OF A NONWOVEN DISPOSABLE PRODUCT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(D) "NONWOVEN DISPOSABLE PRODUCT" MEANS ANY PRODUCT CONSTRUCTED FROM NONWOVEN SHEETS THAT IS DESIGNED FOR, MARKETED FOR, OR COMMONLY USED FOR PERSONAL HYGIENE PURPOSES.

2. NO NONWOVEN DISPOSABLE PRODUCT FOR SALE IN ANY MUNICIPALITY, INCLUDING A CITY WITH A POPULATION OF A MILLION OR MORE, SHALL BE ADVERTISED, PACKAGED OR LABELED AS FLUSHABLE, SEWER SAFE, OR SEPTIC SAFE IF SUCH PRODUCT HAS NOT FIRST BEEN APPROVED AS FLUSHABLE BY A THIRD PARTY ACCORDING TO RULES PROMULGATED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

3. ANY PERSON WHO VIOLATES THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION. SUCH PENALTIES MAY BE RECOVERED IN PROCEEDINGS BEFORE A DEPARTMENT OF ENVIRONMENTAL CONSERVATION ENFORCEMENT HEARING, THROUGH PROSECUTION BY THE BUREAU OF CONSUMER FRAUDS AND PROTECTION, OR IN ANY ACTION IN ANY COURT OF APPROPRIATE JURISDICTION.

4. NOTHING IN THIS SECTION SHALL APPLY TO:

(A) A TELEVISION OR RADIO BROADCASTING STATION, OR TO ANY PUBLISHER OF A NEWSPAPER, MAGAZINE OR OTHER FORM OF PRINTED ADVERTISING, THAT BROADCASTS, PUBLISHES OR PRINTS AN ADVERTISEMENT THAT FEATURES A NONWOVEN DISPOSABLE PRODUCT PACKAGED OR LABELED AS FLUSHABLE, SEWER SAFE, OR SEPTIC SAFE; OR

(B) A WHOLESALER OR RETAILER THAT DISTRIBUTES OR SELLS BUT DOES NOT PACKAGE OR LABEL A NONWOVEN DISPOSABLE PRODUCT THAT IS ADVERTISED, PACKAGED, OR LABELED AS FLUSHABLE, SEWER SAFE OR SEPTIC SAFE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the commissioner of environmental conservation shall promulgate rules and regulations necessary or appropriate to carry out the provisions of this act.